

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SANTOS LUIS OLIVERA,

Petitioner,

-against-

JOHN P. KEANE, Superintendent,

Respondent.
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MEMORANDUM & ORDER

00 CV 1212 (CBA)

AMON, UNITED STATES DISTRICT JUDGE

Petitioner Santos Luis Olivera (“Olivera”), pro se, has filed a motion for reconsideration of this Court’s March 24, 2005 Order pursuant to Rule 60(b). In its Order, this Court held that Olivera’s petition for habeas corpus relief constituted a second or successive petition because it had previously been adjudicated on the merits in the Southern District and that therefore, this Court could not consider it absent authorization from the Court of Appeals. This Court further noted that, because Olivera had already made an application for permission to file a second or successive habeas petition before the Second Circuit, it was unnecessary to transfer his petition to that Court. On the same day that this Court issued the Order in question, the Second Circuit denied Olivera’s application to file a second or successive habeas petition on the grounds that Olivera failed to meet the requirements of 28 U.S.C. § 2244(b) and the standard that existed before the Anti-Terrorism and Effective Death Penalty Act.

Olivera now asks this Court to reconsider its decision not to transfer his habeas to the Second Circuit. Petitioner appears to argue that he has made a prima facie showing before this Court that he has complied with the requirements of § 2244(b) and that it would thus be unfair not to transfer the petition to the Circuit. However, petitioner provided the Second Circuit with substantially the same documents and arguments which he alleges made out a showing before this

Court. In light of the fact that, after a review of his application, the Second Circuit determined that Olivera failed to meet the requirements of 28 U.S.C. § 2244(b), a transfer of the present petition to the Second Circuit would be duplicative. Accordingly, petitioner's motion for reconsideration is denied.

SO ORDERED

Dated: Brooklyn, New York
April 18, 2005

Carol Bagley Amon
United States District Judge